THE HON'BLE SRI JUSTICE C.V. RAMULU

Wednesday, the 1st day of August,2007

W.P.No.9680 of 2002

Between:-

Sesh Mahal Theatre,
Madanapalli, Chittoor
District, represented by its
Proprietor – E.Harinath … Petitioner

and

The Joint Collector and Licensing
Authority, Chittoor District,
Chittoor. … Respondents

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ORAL ORDER:

This writ petition is filed challenging the Proceedings issued by the respondent-Joint Collector in Roc.No.C1/6612/2001, dated 14-1-2002, whereunder the petitioner was imposed with a penalty of Rs.200/- per day for 305 days for exhibiting obscene films in the theatre and publishing obscene wall posters in the premises, as per Section 9 of the A.P. Cinemas (Regulation) Act,1955 (for short 'the Act').

Petitioner is the Cinema Theatre represented by its Proprietor-E.Harinath. It appears, previously, the District Collector, Chittoor vide his Proceedings D.Dis.No.C1/13491/2000, dated 22-12-2000 had imposed a fine of Rs.10,000/- against the licensee-petitioner herein for violation of B-Form licence condition Nos.12 and 14 for screening obscene films. Petitioner remitted the fine of Rs.10,000/- on 26-12-2000 and he was permitted to screen films. However, it appears on 17-7-2001 at about 7.30 p.m., the Station House Officer, I Town Police Station, Madanapalle raided the petitioner-theatre and reported the matter to the Sub-Collector stating that Telugu movie 'Gadasari Chilakalu' was being exhibited on the screen by the operator and on seeing the police party, the operator escaped from the operator's room. He seized 5 iron round boxes containing film reel spools with Blue film bits i.e. obscene exposures, by arresting the Proprietor, under a cover of Panchanama. Later, on 19-7-2001 at about 11.30 a.m.,

one S.Rahamathullah of Devalam Street, Madanapalle Town, who is the operator of the said theatre was also arrested and both of them were brought to the police Station at 11.45 p.m. on 18-7-2001, registered the Mahazar as a case in Crime No.116/2001 under Section 292(2)(a) of IPC and sent them for remand. The case was under trial in C.C.No.320 of 2001 on the file of II Additional Munsif Magistrate, Madanapalle. Further, the Sub-Collector, Madanapalle reported that the Proprietor of the theatre has submitted an application for renewal of B-Form licence beyond 31-8-2001 and as a case in Crime No.116/2001 was registered against the proprietor by the S.H.O., I Town Police Station, Madanapalle for exhibiting the Blue film bits, the Sub-Collector rejected the renewal of B-Form licence of the theatre with a direction to the Mandal Revenue Officer, Mandapalle on 23-10-2001 over phone to stop screening of films in the theatre. Thereafter, it seems, the M.R.O. passed an order asking the petitioner to stop screening of films. Aggrieved by the said Order of the Mandal Revenue Officer, petitioner preferred an appeal through his counsel before the Joint Collector, Chittoor on 12-11-2001. Thereafter, a notice was issued to the petitioner for having violated B-Form licence condition Nos.12 and 14 for having exhibited blue films, which is liable for punishment under the Act and the Rules framed thereunder.

Except noting the said facts, absolutely, there was no evidence to show that the petitioner had exhibited the Blue films or prohibited films regularly for 305 days for making it liable for punishment under Section 9 of the Act and for imposing penalty of Rs.200/- per day for the continued violation of exhibition of obscene films contrary to B-Form licence. Except the alleged raid conducted on 17-7-2001 by the Station House Officer, I Town Police Station, Madanapalle, absolutely there is no other evidence nor the said S.H.O. was

examined before the licensing authority. I am of the opinion that while invoking Section 9 of the Act, which is penal in its nature, it is obligatory on the part of the Joint Collector to look into the evidence and proceed with the matter as per law. In this case, admittedly, no evidence of any kind was placed before the Joint Collector, except the report submitted by the Sub-Collector and the report of the S.H.O. submitted to the Sub-Collector. Neither the M.R.O. nor the S.H.O. nor the Sub-Collector or anybody from the Sub-Collector's Office was examined in this regard. The whole order passed by the Joint Collector is simply based on conjectures and surmises and it does not satisfy the requirements of law for the purpose of holding a person guilty of the offence under Section 9 of the Act for the purpose of imposing penalty of Rs.200/-per day for the continued offence for 305 days. Further, no cogent reasons are furnished for coming to such a conclusion by the respondent. Under these circumstances, the impugned Order is liable to be set aside and is accordingly, set aside.

Accordingly, the Writ Petition is allowed. No order as to costs.

01-8-2007

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